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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/608,595	06/30/2000	Kenneth W O'Flaherty	8981	9513

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JAMES M. STOVER
NCR CORPORATION
1700 SOUTH PATTERSON BLVD, WHQ4
DAYTON, OH 45479

EXAMINER	
MEINECKE DIAZ, SUSANNA M	
ART UNIT	**PAPER NUMBER**
3623	

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/608,595	O'FLAHERTY, KENNETH W	
	Examiner	Art Unit	
	Susanna M. Diaz	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 April 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This non-final Office action is responsive to the Board decision rendered April 12, 2006. Upon performance of an updated search, relevant prior art has been identified and is applied in the art rejection found below.

Claims 1-42 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-42 are rejected under 35 U.S.C. 102(a, e) as being anticipated by Pham et al. (U.S. Patent No. 5,970,482).

Pham discloses a computer-implemented system for using predictive models within a computer-implemented business analysis environment, comprising:

[Claim 15] (a) means for applying a derived measure against a segment, wherein the derived measure comprises a predictive model previously-built by a model-building mechanism in a data mining system (col. 13, lines 1-12, 40-55; col. 14, lines 58-67 -- The Knowledge Model engine generates a knowledge model based on data mining

techniques; col. 19, lines 4-52; col. 20, lines 8-67 -- The knowledge model is applied to categories or bins of data; col. 9, line 41 through col. 12, line 54 -- Neuroagents, programmed with various neuroexpressions, may be used during the learning and training phases); and

(b) means for generating output for the segment from the predictive model in the form of measure values (col. 29, lines 42-65; col. 33, lines 27-50 -- Results may be identified based on a score);

[Claim 16] wherein the derived measure is invoked within an application template, the application template comprises a sequence of elements linked together in a workflow, and the elements are selected from a group comprising a segment, a filter, a measure and a function (col. 13, lines 1-12, 40-55; col. 14, lines 58-67 -- The Knowledge Model engine generates a knowledge model based on data mining techniques; col. 19, lines 4-52; col. 20, lines 8-67 -- The knowledge model is applied to categories or bins of data; col. 9, line 41 through col. 12, line 54 -- Neuroagents, programmed with various neuroexpressions, may be used during the learning and training phases. In order to accomplish this functionality, a workflow linking the elements of segment, filter, measure, and function is carried out);

[Claim 17] wherein the application template is constructed in a visual programming environment (col. 6, lines 51-55; col. 18, lines 1-11 -- The data warehousing techniques are adapted to work with SQL commands. SQL runs in a visual programming environment);

[Claim 18] wherein the application templates can be reused and/or modified by users (col. 31, lines 34-49 -- The model may be redefined; col. 6, lines 51-55; col. 18, lines 1-11 -- Also, SQL is a modular, object-based language that naturally lends itself to reuse and/or modification of programmed modules);

[Claim 19] wherein a segment is a grouping of data elements from a database organized about one or more attributes (col. 19, lines 4-52; col. 20, lines 8-67 -- The knowledge model is applied to categories or bins of data);

[Claim 20] wherein a filter defines one or more attribute constraints applied to a segment (col. 19, lines 4-52; col. 20, lines 8-67 -- The knowledge model is applied to categories or bins of data that are selected, or filtered, from a larger warehouse of data);

[Claim 21] wherein a profile is a labeled collection of attributes of a segment (col. 19, lines 4-52; col. 20, lines 8-67);

[Claim 22] wherein a measure is an expression applied to a segment (col. 9, line 41 through col. 12, line 54 -- Neuroagents, programmed with various neuroexpressions, may be used during the learning and training phases; col. 29, lines 41-65; col. 33, lines 37-50 -- The fact that a score is generated to identify the best candidates implies that an expression is applied to a segment);

[Claim 23] wherein the computer-implement business analysis environment includes an object model, and the segments, attributes, filters, and measures comprise objects (col. 13, lines 1-12, 40-55; col. 14, lines 58-67 -- The Knowledge Model engine generates a knowledge model based on data mining techniques; col. 19, lines 4-52; col. 20, lines 8-67 -- The knowledge model is applied to categories or bins of data; col. 9,

line 41 through col. 12, line 54 -- Neuroagents, programmed with various neuroexpressions, may be used during the learning and training phases. In order to accomplish this functionality, a workflow linking the elements of segment, filter, measure, and function is carried out; col. 18, lines 1-11 -- Also, SQL is an object-based language).

[Claim 24] wherein operations upon the objects are translated into SQL statements that access corresponding tables and columns in a relational database (col. 6, lines 51-55; col. 17, lines 47-67; col. 18, lines 1-11 -- The data warehousing techniques are adapted to work with SQL commands. SQL operates in a relational database environment by accessing corresponding tables and columns in a relational database and acting upon objects);

[Claim 25] wherein the predictive model comprises one or more SQL statements that access tables and columns in a relational database (col. 6, lines 51-55; col. 17, lines 47-67; col. 18, lines 1-11 -- The data warehousing techniques are adapted to work with SQL commands. It is well-known that SQL operates in a relational database environment by accessing corresponding tables and columns in a relational database and acting upon objects);

[Claim 26] wherein the predictive model comprises one or more statements executed by a database management system (col. 13, lines 1-12, 40-55; col. 14, lines 58-67 -- The Knowledge Model engine generates a knowledge model based on data mining techniques; col. 19, lines 4-52; col. 20, lines 8-67 -- The knowledge model is applied to categories or bins of data; col. 9, line 41 through col. 12, line 54 -- Neuroagents,

programmed with various neuroexpressions, may be used during the learning and training phases; col. 33, lines 37-50 -- The fact that a score is generated to identify the best candidates implies that an expression is applied to a segment);

[Claim 27] wherein the statements access data stored in the database management system (col. 17, line 47 through col. 18, line 23 -- Data is accessed through a data warehouse; col. 13, lines 1-12, 40-55; col. 14, lines 58-67 -- The Knowledge Model engine generates a knowledge model based on data mining techniques; col. 19, lines 4-52; col. 20, lines 8-67 -- The knowledge model is applied to categories or bins of data; col. 9, line 41 through col. 12, line 54 -- Neuroagents, programmed with various neuroexpressions, may be used during the learning and training phases; col. 33, lines 37-50 -- The fact that a score is generated to identify the best candidates implies that an expression is applied to a segment);

[Claim 28] wherein the model-building mechanism comprises an analytic algorithm for rule induction performed against data stored in a database management system to create the predictive model system (col. 17, line 47 through col. 18, line 23 -- Data is accessed through a data warehouse; col. 13, lines 1-12, 40-55; col. 14, lines 58-67 -- The Knowledge Model engine generates a knowledge model based on data mining techniques; col. 19, lines 4-52; col. 20, lines 8-67 -- The knowledge model is applied to categories or bins of data; col. 9, line 41 through col. 12, line 54 -- Neuroagents, programmed with various neuroexpressions, may be used during the learning and training phases; col. 33, lines 37-50 -- The fact that a score is generated to identify the best candidates implies that an expression is applied to a segment).

[Claims 1-14] Claims 1-14 recite limitations already addressed by the rejection of claims 15-28 above; therefore, the same rejection applies.

[Claims 29-42] Claims 29-42 recite limitations already addressed by the rejection of claims 15-28 above; therefore, the same rejection applies.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-42 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-45 of U.S. Patent No. 6,954,758. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations recited in claims 1-42 of the instant application are

substantially similar to claims 1-45 of the patent. For example, the limitations of "applying a derived measure against a segment, wherein the derived measure comprises a predictive model previously-built by a model-building mechanism in a data mining system" and "generating output for the segment from the predictive model in the form of measure values" from claim 1 of the instant application either expressly or inherently require performance of the steps of "generating a definition for a derived measure," "invoking a model-building mechanism in a data mining system based on the generated definition, wherein the model-building mechanism builds a predictive model that generates an output for the derived measure," and "applying the derived measure against a segment by executing the predictive model, and generating an output for the segment from the predictive model" (as recited in claims 1 and 2 of the patent).

Additionally, claims 2-14 recite substantially the same limitations recited in claims 3-15, respectively, of the patent.

A similar argument is made for apparatus claims 15-28 of the instant application in relation to claims 16-30 of the patent as well as article of manufacturing claims 29-42 of the instant application in relation to claims 31-45 of the patent.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 10 am - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susanna M. Diaz
Primary Examiner
Art Unit 3623

June 5, 2006

WYNN W. COGGINS
TECHNOLOGY CENTER DIRECTOR